

**INQUIRY INTO STUDENTS WITH A DISABILITY OR  
SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS**

**Name:** Name suppressed

**Date received:** 23 February 2017

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Partially  
Confidential

NSW LEGISLATIVE COUNCIL  
GENERAL PURPOSE STANDING COMMITTEE NO 3

INQUIRY INTO STUDENTS WITH DISABILITY OR SPECIAL NEEDS IN NEW SOUTH WALES  
SCHOOLS

**THIS SUBMISSION FOCUSES ON PART (D):**

**Complaint and review mechanisms within the school systems in the  
New South Wales public schools.**

BACKGROUND: My husband and I have 4 children all of whom were identified as having special educational needs. We have experienced many years of bullying, victimisation, bias and educational neglect of our children at both school level and at Departmental level, as a result of our complaints with regard to the neglect of these educational needs.

We have also experienced years of ongoing issues relating to the manner in which complaints were dealt with by the DET with regard to our allegations of victimisation, maladministration, manipulation of state records, tampering with test scores and school applications, bias and a conspiracy to cover up.

SYNOPSIS

- The Minister for Education, in response to representations made by me, ordered an investigation into the manner in which my family's complaints surrounding the Selective Schools applications for my children had been dealt with.
- Documents produced under FOI show that in internal correspondence the Leader of the Selective Schools Unit, MP, presented me as being classified as a vexatious correspondent. We allege MP was victimising our children.
- Internal file notes and emails produced under FOI confirm that the investigation has not taken place. I continued to make contact with the DET by letter and fax regarding the investigation promised by the Minister.
- Documents produced under FOI show that the matter was deemed closed without being investigated.
- Numerous requests were made by me that MP not be permitted to have any dealings with our matter/complaints and/or our youngest daughter's OC or Selective High Schools application, as prior serious complaints with regard to our two elder children's Opportunity Class and Selective School applications had not been investigated. Documents produced under FOI demonstrated that our request was ignored. MP orchestrated our daughter's applications as well as all of our previous correspondence, including our complaints of MP, in a direct contradiction to our requests.

- All complaints made by me, even fresh complaints of new instances of further victimisation aimed at our younger daughter, are filed away.
- Any new representations made on my behalf, by Ministers or others, are forwarded to MP, who presents that the matter has **been investigated by the DET and the Ombudsman; that I have been deemed vexatious and that the matter is closed**. The Ministers then relay the information to me and say that they cannot help. The DET then use these letters to further support that Ministers have also investigated the matter.
- That the person whom the allegations are being made against is tasked with orchestrating, handling and investigating these complaints defies logic. A thorough and unbiased investigation is clearly impossible regardless of the amount of irrefutable evidence

For more than 10 years we have attempted to have our complaints dealt with according to DET Policy and Procedure. The complaint process is corrupted. Our children have suffered as a consequence.

Supporting information and evidence is set out below.

Copies of original documentation are set out on the copy attached and can be provided on request

On 24<sup>th</sup> June 2003 I sent a letter to the Minister for Education Mr. Refshauge with regard to the manner that my family's complaints surrounding the Selective Schools applications for my children had been dealt with.

*On 4 August 2003 under RML 03/5996 the Minister replied as follows:*

*Dear Mrs C\*\*\*\*\**

*I refer to your letter dated 24 June 2003, regarding lodgement of a formal complaint about the manner in which matters surrounding the Selective Schools application for your children have been dealt with by the Department of Education and Training.*

*I have advised Mr CC, R/Director of Student Assessment and School Accountability that your formal complaint should be dealt with in accordance with the Departments Responding go Suggestions, Complaints and Allegations procedures. This document is available on the Department Web site at [www.det.nsw.edu.au/complaints/](http://www.det.nsw.edu.au/complaints/). A copy has also been enclosed.*

*Mr C\*\*\*\*\* will proceed to set the process in place and will contact you in due course to advise you of progress.*

*Yours sincerely  
Signed*

*Andrew Refshauge MP  
Deputy Premier  
Minister for Education and Training  
Minister for Aboriginal affairs*

I was NOT contacted by the R/Director of Student Assessment and School Accountability, Mr CC with regard to the investigation and my attempts to find out what was happening were ignored.

The Selective High school test was taken on the 13<sup>th</sup> of June 2002. Access to the original answer booklets/sheets were part of an FOI application request that had been lodged on 20 November 2002. This FOI request was being put before the Administrative Decision Tribunal. The matter was listed at the Administrative Decision Tribunal for a planning meeting on Wednesday 18 June 2003.

In an email exchange received under FOI from BW (Head of Selective Schools Unit) to JL from Research Fellow ACER dated 16 and 17 June 2003 (the days before the planning meeting) it states the following:

*16 June 2003*

*FROM: JL – ACER*

*TO BW - RE: Secure destruction of 2002 materials.*

*B\*\**

*The SHS contract specifies that test materials be retained for 12 months after the test date. As this period has now expired for the 2002 materials I seek your permission to destroy under secure conditions the 2002 materials (test booklets and answer sheets) J.*

*17 June 2003*

*Response from BW TO JL*

*J\*\*\**

*Approved.*

*Regards B\*\**

The fact that original answer sheets were destroyed whilst being sought under an FOI request was brought up at the Administrative Decisions Tribunal. The ADT's response was that the DET cannot produce documents that they do not have and that the fact that they were destroyed while part of an FOI request was outside their jurisdiction.

In an email I received from ACER it stated the following:

*29 July 2003*

*FROM: JL (Research Fellow ACER)*

*TO: J\*\*\*\*\* RE: Selective Schools Test Enquiry*

*Dear Mrs C\*\*\*\*\**

*The 2002 Selective High School Test was on Thursday 13 June 2002. The 2002 answer sheets and test booklets were destroyed under secure conditions on Wednesday 18 June 2003.*

*Yours sincerely - JL*

On 27 August 2003 I attended a viewing arranged at the office of the Department of Education with my two eldest children to give my children an opportunity to review their test papers and answers etc. as conducted by ACER. Despite requesting access to documents generated directly from ACER we were not provided with the original answer report generated by ACER instead being provided with an electronic printout of answers generated by the Selective Schools Unit' computer. We were also not provided with an answer key.

At this viewing a number of members of the DET were present in the room whilst my children were trying to review the test questions and the answers. These DET representatives kept harassing us, bringing up issues and interrupting my children until I removed my children and left as they were upsetting my children and my children became stressed and distressed. This was supposed to be a quiet and safe environment for my children to just go through their test papers as they didn't believe the results that they said they had achieved and we were intimidated and bullied by DET staff until we left distressed.

The DET then referred to this as their investigation.

I requested a further viewing in an environment safe for my children with the original Test booklet and original answer sheets from ACER and answer key held by ACER.

Documents produced under FOI show that MP, the person from the Selective Schools Unit whom we alleged was responsible for victimising our children, sent the following facsimile.

*TO: UP*

*From: MP*

*Date: 4 March 2004*

*Subject Mrs. C*

*U*

*Here is the fax from Mrs. C\*\*\*\*\*. As I mentioned in our conversation, a clerical assistant in the Selective Schools unit has acknowledged the letter in writing on B\*\*\*s behalf.*

*The Unit would like advice from Legal Services on a response to this. After 14 RML's, 3 FOI's, an Ombudsman Investigation and an Administrative Decisions Tribunal Hearing, Mrs C\*\*\*\*\* has been classified as a vexatious correspondent and has been advised that further letters to the Ministry would be filed without response. Does this also come under that heading or do we respond? If so how?*

*Regards*

*M\*\*\*\*\**

I had not received any notification from the DET that had indicated that I had been deemed vexatious. As internal documents produced under FOI repeatedly indicated that I had been deemed vexatious. In August 2007 we sent the following FOI request seeking documentation relating to and supporting the decision to deem me (the applicant) vexatious and/or to present me as vexatious as shown on various DET documents as follows:

*".....Mrs C\*\*\*\*\* has been classified as a vexatious correspondent and has been advised that further letters to the Ministry will be filed without response (dated 4 March 2004)*

*".....She has been told by the Minister that 'no further correspondence will be entered into because of the vexatious nature of her communications. There was another ministerial reply not long before that however (referring to a letter RML 03/5996 – dated 4 August 2003 signed by the Minister Refshauge, which indicated that CC would investigate her complaint and get back to her..." (Dated 6 August 2004)*

*".....Mrs C\*\*\*\*\* has written 13 times to relevant Ministers and has had each of her concerns fully and repeatedly answered until she was declared a vexatious correspondent...."> (dated December 2005)*

*" Mrs C\*\*\*\*\* has been declared a vexatious correspondent for the purposes of Ministerial correspondence (dated January 2006)*

*"....She was declared vexatious for purposes of Ministerial correspondence and any subsequent Ministerial correspondence from her is filed without response ...." (Dated March 2006)*

We received under FOI the following information on document No's 60 and 61 on plain paper, undated and not signed:

*LIST OF REGULAR CORRESPONDENTS TO WHICH ACKNOWLEDGEMENT/RESPONSES SHOULD NOT BE SENT*

*C\*\*\*\*\* J – (re selective schooling for her children - RML 03/10994)*

*All other information was blacked out stating it was not relevant.*

In a letter from the Legal Services, Manager of the FOI Unit, ES dated 25 March 2008 Ref: FOI-07 -231 ADT Ref: 07336) it also stated the following:

*The Department does not have a policy on "vexatious correspondents". Neither the Department of Education and Training, nor the Minister for Education and Training has deemed you to be vexatious. The documents 60 and 61 produced under this determination indicate that the Minister for Education and Training included you on a list of correspondents to which to which responses or acknowledgement should not be sent and the reason why that decision was made.*

*The six documents you refer to in your letter at Tab C used the term "vexatious" in reference to you. It appears from my examination of those documents the writers have used the term vexatious to mean "annoying, or instituted without sufficient grounds and serving only to cause annoyance" (Macquarie Dictionary) based on their assessment of the history of your correspondence with this Department and other agencies, concerning the issues of your children's testing and applications for Opportunity Class and Selective High Schools.*

Sometime in 2003/2004 MP despite having serious allegations made against her that included allegations of manipulation of state records, tampering of test scores and school applications, bias, maladministration and victimisation MP was promoted to Records Management Officer at the Educational Measurement Directorate.

Documents were also requested under FOI with regard to the investigation that had been promised by the Minister Mr Refshauge. We received the following:

2 June 2004 - handwritten file note by Chief Legal Officer JM (typed copy)

*Spoke to DW. He is essentially relying on MP for advice. Agreed that I would send the letter with a comment that I was exploring the CC investigation and would get back to her about that. Agrees I would call D\*\*\*. on Monday.*

*Spoke to MP- she advised that BW is probably the appropriate person to arrange the meeting.*

*Spoke to BW. His recollection was that there was no investigation as such. My suggestion was that it may have been overtaken by the resolution of the ADT proceedings. I said I would discuss this with A\*\*\*\*\**

*Spoke to AB. His recollection is that the ADT resolution was in settlement of everything. He is happy to attend a meeting with BW and Mrs C\*\*\*\*\*. if required.*

I spoke to the Head of the Selective Schools Unit BW by telephone with regard to organising the meeting. I advised him that given what had happened at the viewing with my children that I would be bringing a Solicitor to any meeting arranged. I was advised by BW that he would only have a meeting with me personally and that regardless whether I found his

responses reasonable or even acceptable that the matter would be closed and any further correspondence from me filed without acknowledgment. I wrote to the Department with regard to this and received no reply.

22.06.2004 File note from Legal Services Director. JM

*MP rang. Said will prepare a response but does not have the material I sent to BW in April. I undertook to resend this.*

*She raised child protection concerns for the C\*\*\*\*\* children. Apparently they were crying at the meeting that was held at Parramatta. I said we should discuss this further and if there was a risk of harm, Docs should be notified.*

24 June 2004 - File note from Legal Services Director JM

*Rang for MP - has apparently finished the response but is away sick. A .....copy is on the way to me.*

*Rang DW – he is also away sick but may be in later. I left a message for him to call me. His assistant, MC, will email the response to me.*

24 June 2004 - Email Chief Legal Officer JM to Leader of Selective Schools Unit MP, DW and BW

*Gentlepeople*

*Thank you for your good work in relation to the matter of Mrs C\*\*\*\*\*.*

*I've prepared a draft letter (attached) which contains the material that MP has prepared in response to Mrs C\*\*\*\*\*'s letter dated 22 August 2003. I have made some minor amendments to this material and would be grateful if you could read it through to make sure that I haven't mucked anything up.*

*I have taken the liberty of presuming that you don't want to investigate a complaint about essentially the same issues but there still seem to be two outstanding points.*

*One is Mrs C\*\*\*\*\*'s desire to again look at the test papers etc. I have decided to ignore that for the moment unless you counsel me otherwise.*

*The second one is something of a surprise. On 4 August 2003 the Minister wrote to Mrs C\*\*\*\*\* advising that he in turn had 'advised CC, R/Director of Student Assessment and School Accountability that your formal complaint should be dealt with in accordance with the Departments "Responding to Suggestions, Complaints and Allegations" procedures." And then that "Mr C\*\*\*\*\* would proceed to set the process in place and will contact you in due course to advise you of progress. Mrs C\*\*\*\*\* says that she has never been contacted by CC. Can you tell me what the position is with this and what transpired between then and the Ministers letter of 19 December 2003?*



30 June 2004 - handwritten file note by Chief Legal Officer JM (typed copy)

*Spoke to MP she sent some suggested changes to DW. Discussed her comments in detail. She is not aware of the CC Investigation. In her view there should be no revisiting of the viewing exam papers issue. I said I would fix these things and talk to DW.*

*Left a message for DW to call me.*

*Spoke to CC. He said the complaint was investigated. This was at the time that she came in to review the exam papers. DW and /or BW should be aware of what transpired and any files etc.*

5 July 2004 - Email Chief Legal Officer JM to RW, DW, MP

*Gentlepeople*

*The final version of my letter to Mrs C\*\*\*\*\* (sent last Friday) is attached.*

*The only thing still outstanding at this stage from my perspective is the CC "investigation" My feeling after talking to C\*\*\*\*\*, B\*\*, and AB etc. is that the resolution of the ADT proceedings was assumed to wrap up all the outstanding issues. It would be great if there was some record like a file note etc.*

5 July 2004 - handwritten file note by Chief Legal officer JM (typed copy)

*Spoke to DW. He has no additional knowledge of the CC Investigation. Said that BW is the person who would have any relevant files etc.*

*I understood to forward a copy of any letter to Mrs C\*\*\*\*\* to B\*\*, D\*\*\* and M\*\*\*\*. I said I would discuss the CC investigation with B\*\*.*

8 July 2004 - handwritten file note JM (typed copy)

*Spoke at length to Mrs C\*\*\*\*\* She says that the CC investigation was completely separate to the ADT proceedings. Says that there has never been any investigation about the corruption she is alleging. Says the investigation was not discussed in the content of winding up the ADT proceedings and want to know what happened to it.*

6 August 2004 - Email from Chief Legal Officer JM to Audit Directorate C B.

*Welcome friend*

*I do have a file which you are welcome to have a copy of/whatever. Mrs C\*\*\*\*\*. is a regular customer of the FOI and Privacy Unit and they have some additional files. Likewise the Selective Schools Unit has a large amount of material relation to her repeated complaints.*

*She has been told by the Minister that "no further correspondence will be entered into" because of the vexatious nature of her communications. There is another ministerial reply not long before that however, which indicated that CC would investigate her "complaint" and get back to her. It appears this did not happen. She brought*

*proceedings in the Administrative Decisions Tribunal concerning on of her FOI requests and it seems likely the discussions around that drew attention away from the promised investigation. The ADT proceedings were eventually resolved on terms of settlement which I have been following through on.*

*I became involved by doing the internal review on another of Mrs C\*\*\*\*\*'s FOI requests and have been trying to tie up the loose ends and assist her.*

*She did go to the Ombudsman at some stage and they declined to go further with her complaint. The other issue to bear in mind is that some members of staff have reportedly felt concerns about risk of harm to Mrs C\*\*\*\*\*'s children arising from her behaviour and their involvement in the complaints etc. How would you like to proceed?*

13 August 2004 - handwritten file note by Chief Legal Officer JM (typed copy)

*Spoke to CB. He is waiting to hear back from Selective Schools Unit. It is likely that Audit will not investigate further. He will copy me in to his reply.*

*BW is away ill. Left a message for DW to call me on Monday.*

13 August 2004 - Email from Chief Legal Officer JM to RW

*B\*\* I'm sorry to hear that you are ill. You haven't had a good run.*

*When you get back on deck, could you please give me a call (95.....) re Mrs C\*\*\*\*\*?*

*There only seems to be one issue left from my piece of it. That is the CC investigation. I don't' feel that I can address that with what I have and there is another letter from her insisting that the investigation take place. My inclination, subject to talking to you and DW (I've left a message for him) is to send an acknowledgement to her saying that I have referred this issue to you/D/whoever to reply. It would be a matter for you guys what you would then say but you may just want to indicate, if this is correct, that all of her complaints have been dealt with and that you do not intend to take any further action. Anyway we can talk it through when you get back.*

23 August 2004 - handwritten file note from Chief Legal officer JM (typed copy)

*Spoke to BW. MP thinks it is a good idea to do a file review for the operative period and to write to Mrs C\*\*\*\*\* advising that the matter is considered to be finalised. I said that I would send a confirming email to B\*\*, MP and DW.*

24 August 2004 - Email from JM to RW, DW, MP

B\*\*

*I refer to our discussion yesterday and confirm that from my perspective, and I know there are many others, the only issue remaining outstanding is the "CC investigation" referred to in the letter to Mrs C\*\*\*\*\* from the Minister dated 4 August 2004.*

*As you know I flagged this with Mrs C\*\*\*\*\* in my letter dated 2 July 2004 which said "My preliminary enquiries indicate it was intended that the terms of the resolution of the Administrative Decision's Tribunal proceedings cover all outstanding issues between you and the Department including the complaint to be investigated by Mr C\*\*\*\*\*". I undertook to write to her again on this point once it had been sorted out.*

*I confirm the suggestion that I made yesterday for a file review to be undertaken in relation to the period between the Ministers letter of 4 August 2003 and his letter of 19 December 2003 stating "....the Department now considers these matters closed. All future correspondence on these issues will be filed without response unless it relates to matters not previously raised." It may be that the file review will establish that the issues complained of were examined and that no further action was found to be warranted for example.*

*In terms of finally closing off my FOI file, unless I hear from you to the contrary, I will write to Mrs C\*\*\*\*\*, referring to my letter dated 2 July and advising that I have referred that issue to Mr DW, Director Educational Management. I will formally send a copy of that letter and of relevant earlier correspondence to DW, which will no doubt be passed on to you.*

A document produced under FOI states as follows:

From MP  
SENT Wednesday 30 August 2006 12.17 PM  
TO MS  
CC A A.  
Subject: SHS and OC Placement Issues

*Current issues:*

- The Ombudsman has decided not to investigate us in response to Mrs C's complaints.*

The matter was deemed closed and any representation made by me with regards to previous or even fresh allegations in the years that followed involving to my two younger children of educational neglect, bullying, discrimination and victimisation were dealt with the same way.

Fresh allegations of bias, maladministration, manipulation and destruction of state records and victimisation aimed at my younger children and family were also dealt with the same

way. Numerous requests that the people whom we had alleged were targeting our children not be allowed to deal with any matters in relation to my children and family were ignored.

I continued to correspond with every Department including the Child Protection Department seeking protection for my children to no avail.

For years to come at every change of Government or Ministers for Education I wrote asking for my family's complaint to be investigated as promised by the Minister Mr Refshauge sending copies of the Ministers letter and the abovementioned internal emails and file notes that stated that the investigation had been promised and had not taken place and that showed that the matter had been unfairly closed. Each time my complaint was dealt with the same way and I received the same reply from the Ministers office stating that they had been advised that my complaints have been investigated by the DET, the Ombudsman and Ministers and the matter deemed closed.

The complaint handling process is corrupted and as a result children are not protected and are at risk of harm.

This situation needs to change what is needed is the following:

- A complaint handling process that does not allow those alleged to be responsible to deal with the complaint, discredit the complainant and close the complaint without question or challenge.
- A process of complaint handling that is truly independent to the Department and that is open and transparent and has 'best interest of the child' as the main focus and concern.
- A process of investigation that requires those alleged to be responsible to be challenged with regard to their responses.

Allowing those in the Department being complained about to respond to the complaint and then orchestrate all dealing in relation to the complaint, mark the complainant vexatious and close the complaint denies the complainant procedural fairness and natural justice and puts children at serious risk of harm.

I would be prepared to attend to give any oral submission or evidence and can provide documentation to support all my allegations.